APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,652	04/05/2001	Ronald D. Olsen	11983.0076	3485

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EXAMINER
WANG, TED M

ART UNIT	PAPER NUMBER
2634	

DATE MAILED: 08/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *05 April 2001*.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters; prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-30* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☒ Claim(s) *8-20* is/are allowed.

6) ☒ Claim(s) *1-7, 21-23, 27, 28, and 30* is/are rejected.

7) ☒ Claim(s) *24-26 and 29* is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

1.   Claims 1-30 are pending in the application.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed
> or described as set forth in section 102 of this title, if the differences between the
> subject matter sought to be patented and the prior art are such that the subject
> matter as a whole would have been obvious at the time the invention was made
> to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was
> made.

3.   Claims 1-7, 21-23, 27, 28, and 30 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Earnest (US5,982,837) in view of Kilkki (US6,163,808).

◻   In regard claim 1, Earnest discloses an automatic baud rate detector with

determining durations, each duration corresponding to time elapsed between

detection of a first logical event a signal and a second logical event of the signal

(column 3 lines 29-55 and column 9 claim 8); selecting a first duration from the

durations, and incrementing a first counter for each occurrence of the first

duration to provide a first total value (Fig.2 element 44, column 4 line 8 – column

5 line 67, column 3 lines 50-67) except specifically teaching incrementing a

second counter for each occurrence of a second duration to provide a second

total value, the second duration corresponding to the selected duration plus a

time interval; and determining a bit rate weighted average corresponding to the

first and second total values.

Kilkki discloses a network adjust cell transfer capacity in response to change in

the actual bit rate related to the nominal bit rate with incrementing a second

counter for each occurrence of a second duration to provide a second total value

(Fig.10 elements 24-35, column 14 line 36 – column 15 line 23, and column 24

claim 16), the second duration corresponding to the selected duration plus a time

interval (column 24 lines 34-36 and column 14 line 49 – column 15 line 23); and

determining a bit rate weighted average corresponding to the first and second

total values (column 14 line 49 – column 15 line 19 and column 24 claim 16) in

order to simplify the implementation of the network management architecture and

provide better quality of the service to users.

It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify Earnest's automatic baud rate detector in view of Kilkki's

disclosure in order to simplify the implementation of the network management

architecture and provide better quality of the service to users..

▫ In regard claim 2, the limitation of determining one of the durations includes

counting time intervals between detection of first logical event and detection of

the second logical event can further be taught by Earnest in Fig.1 elements 20-

26 and column 3 lines 29-55.

❑ In regard claim 3, the limitation of the first logical event is detected by sensing a

leading edge of a pulse corresponding to the signal can further be taught by

Earnest in Fig.1 elements 20-26 and column 3 lines 29-55.

❑ In regard claim 4, the limitation of the first logical event is detected by sensing a

leading edge of a pulse corresponding to the signal can further be taught by

Earnest in Fig.1 elements 20-26 and column 3 lines 29-55.

❑ In regard claim 5, the limitation of the first duration is the shortest duration among

the plurality of durations can further be taught by Kilkki in column 22 lines 37-42.

❑ In regard claim 6, the limitation of the bit rate is a mathematical inverse of one-

half of the weighted average can further be taught by Earnest in column 3 line 35

– column 4 line 7.

❑ In regard claim 7, the limitation of the bit rate is a mathematical inverse of one-

half of the weighted average can further be taught by Earnest in column 3 line 35

– column 4 line 7.

❑ In regard claim 21, which is a software implementation of claim 1, all limitation is

contained in claim 1. The explanation of all the limitation is already addressed in

the above paragraph. Further limitation of the software implementation can

further be taught by Earnest in column 1 lines 31-55.

❑ In regard claim 22, which is a software implementation of claim 5, all limitation is

contained in claim 5. The explanation of all the limitation is already addressed in

the above paragraph.

❏ In regard claim 23, which is a software implementation of claim 2, all limitation is contained in claim 2. The explanation of all the limitation is already addressed in the above paragraph.

❏ In regard claim 27, which is a software implementation of claim 7, all limitation is contained in claim 7. The explanation of all the limitation is already addressed in the above paragraph.

❏ In regard claim 28, which is a system claim related to claim 1, all limitation is contained in claim 1. The explanation of all the limitation is already addressed in the above paragraph. Further limitation of a computer connected to a transmission line can further be taught by Kilkki in column 1 lines 11-23.

❏ In regard claim 30, which is a system claim related to claim 3, all limitation is contained in claim 3. The explanation of all the limitation is already addressed in the above paragraph.

Allowable Subject Matter

4.   Claims 8-20 are allowed.

5.   Claims 24-26 and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6.   Reference US6,215,414, US5,631,925 and J. Christoph Scheytt, "a 0.155-, 0.622-, and 2.488-Gb/s Automatic Bit-Rate Selecting Clock and Data Recovery IC for

Bit-Rate Transparent SDH System", IEEE Journal of Solid-state Circuits, Vol. 34, No.

12. pp. 1935-1943, December 1999 are cited because they are put pertinent to the Bit-

rate detection. However, none of references teach detailed connection as recited in
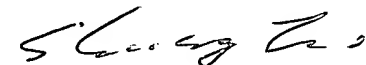
claim.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Ted M Wang whose telephone number is (703) 305-

0373. The examiner can normally be reached on 8:30 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Steven Chin can be reached on (703) 305-4714. The fax phone number for

the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or

proceeding should be directed to the receptionist whose telephone number is (703) 306-

0377.

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Ted M Wang
Examiner
Art Unit 2634

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Ted M. Wang

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SHUWANG LIU
PRIMARY EXAMINER

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